

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 109/Lab./AIL/J/2014, dated 16th July 2014)

NOTIFICATION

Whereas, the award in I.D.(T) No. 4/2008, dated 23-5-2014 of the Industrial Tribunal, Puducherry in respect of the industrial dispute between the General Manager, M/s. Swadeshi Cotton Mills, Puducherry and the Pudukai Mill Thozhilalar Sangam, Puducherry over correction in the date of joining of 15 workers has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said award shall be published in the official gazette, Puducherry.

(By order)

S. THAMMU GANAPATHY,
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL
AT PONDICHERY**

Present : Tmt. S. MARY ANSELAM, M.A., M.L.,
Presiding Officer (FAC),
Industrial Tribunal.

Friday, the 23rd day of May 2014

I.D. (T) No. 4/2008

The President,
Pudukai Mill Thozhilalar Sangam,
Puducherry . . . Petitioner

Versus

The General Manager,
M/s. Swadeshi Cotton Mills,
Puducherry . . . Respondent

This industrial dispute coming on this day before me for hearing in the presence of Thiru Durai Arumugam, Counsel for the petitioner and Thiru K. Ravikumar, Advocate for the respondent upon hearing both sides, upon perusing the case records, after having stood over till this day, this court passed the following:

AWARD

The industrial dispute arises out of the reference made by the Government of Pondicherry as per the Conciliation Failure Report No.1614/2007/LO(C)/AIL, dated 9-5-2008. The Government of Pondicherry made a reference to the Labour Court, Pondicherry through G.O. Rt. No. 112/AIL/Lab./J/2008, dated 4-7-2008.

(a) Whether the dispute raised by the Pudukai Mill Thozhilalar Sangam (CITU), Puducherry against the management of M/s. Swadeshi Cotton Mills, Puducherry over correction in the date of joining of 15 workers viz., Tvl./Tmt. (1) Segar, (2) Sundaramoorthy, (3) Parameswaran, (4) Anwar Basha, (5) Sathyanarayanan, (6) Ezhilarassou, (7) Ramanujam, (8) Pokkilai, (9) Patchiyappan, (10) Thangarassou, (11) Karunakaran, (12) Perumal, (13) Mangalakshmi, (14) Chandrasekaran and (15) Ramachandiran is justified or not?

(b) If not, what remedy they are entitled to? Give appropriate directions?

2. The petitioner in this petition has stated as follows:

The petitioner union had raised the industrial dispute for selection as to the date of confirmation of 15 workmen of Swadeshi Cotton Mills, Puducherry. The name of the 15 employees is found in Ex.P2 stated as follows:

Sl. No.	Labour name	Token No.	Date of joing	Date of registration	Deduction of year
(1)	(2)	(3)	(4)	(5)	(6)
1	Sekar	2629	16-6-1985	16-5-1987	2 years 3 months
2	Sundaramurthy	2631	3-3-1985	19-5-1987	2 years 2 months
3	Parameswaran	2630	13-5-1985	29-5-1987	2 years
4	Anwar Basha	2629	21-2-1985	13-1-1987	1 year 10 months
5	Sathiyarayanan	432	27-3-1976	1-4-1978	2 years
6	Ezhilarasu	563	2-10-1966	1-5-1970	3 years 6 months
7	Ramanujam	434	2-9-1976	1-4-1978	1 year 6 months
8	Pokkilai	9731	18-6-1984	3-9-1986	2 years 2 months
9	Pachaiyappan	2643	-12-1986	26-5-1993	6 years
10	Thangarasu	436	4-12-1976	1-4-1978	1 year 3 months
11	Karunakaran	2230	7-4-1979	16-02-1982	2 years 10 months

(1)	(2)	(3)	(4)	(5)	(6)
12	Perumal	428	1976	2-5-1977	1 year 5 months
13	Mangalakshmi	2636	14-12-1979	6-7-1987	7 years 6 months
14	Chandirasekaran	2127	1982	18-10-1984	1 year 10 months
15	Ramachandiran	2134	11-1-1980	30-1-1985	5 years

The date of joining is also mentioned in Ex.P2 filed along with the claim statement.

It is stated in the claim petition that in the respondent mill some 250 workers are working now. On 1-1-2005 in consultation with all Labour Union the respondent released his statement with permanent code number with all the employees. In that list the date of entry is not stated as it is mentioned in the ESI Card. Since, there is a variation in the date of entry into service. The employees sustained a loss of 14 to 76 months pay. In this connection, the petitioner union sent a letter to the respondent. Since no reply was given by the respondent the matter was taken to the Labour Officer, Conciliation after 9 months only. The respondent gave a reply. In their reply, it is stated by the respondent that the dispute is raised after inordinate delay. It is further stated why this objection was not raised while giving a nomination form the request of the petitioner is to correct. The date of entry, as it is found in the ESI Card, so it is prayed that the date of entry of all the 15 members are to be corrected as it is found in the ESI Card.

3. The respondent in this counter has stated as follows:

As per the ESI Act all the employees including permanent employees, temporary employees, casual employees, employees receiving monthly wages, employees receiving weekly wages, employees receiving wages on hourly basis, piece rated employees, contract labourers, paid apprentice, paid trainee and paid probationers will have to be brought under the purview of the Act. This information is given alike to all casual employees, contract employees and temporary employees, this does not mean that they were confirmed on that date, it only means that they have entered to the mills as casuals. This respondent denies that the date of entry as per the ESI Identity Card is liable to be taken as date of confirmation. As per the EPF Act all the employees including permanent employees, temporary employees, casual employees, employees receiving monthly wages, employees receiving weekly wages, employees receiving wages on hourly basis,

piece rated employees, contract labourers, paid apprentice, paid trainee and paid probationers will have to be brought under the purview of the Act and are given coverage under the Act in order to protect their interests. All the employees who are made permanent are given individual code numbers, and from the date on which they are made permanent, provident fund contributions are deducted. The petitioners are claiming to consider the date of entry mentioned in the ESI Card as the date of confirmation for all other purposes and records. This respondent states that the ESI Card is issued under the Employees State Insurance Act and the same yardstick under which a worker is brought under the ambit of the ESI Act cannot be in blanket and blindly applied to all records not covered by the ESI Act. On 31-3-2005 the accumulated loss of the respondent mills stood at ₹ 87.12 crores and its yearly loss at ₹ 10.40 crores. As on 31-3-2006 its yearly loss at ₹ 3.84 crores. On account of the continuous loss, the working capital of the mill has been completely eroded and presently the mill is able to function only with the supplier's credit. As a result which the respondent has not been able to remit even the statutory dues to the concerned authorities in time.

The National Textiles Corporation were decided to be closed down by the NTC as they were termed to be unviable as per the Revival-cum-Rehabilitation Scheme. It is only at that point of time that in order to protect the interest of the workmen, the Government of Pondicherry had stepped and taken over the mills directly under the control of the Pondicherry Textiles Corporation, *vide* a gazette notification dated 19-4-2005. A Unit of the National Textile Corporation Limited, New Delhi and was administered by namely, 'National Textile Corporation (Tamil Nadu and Pondicherry) Limited'. As the NTC had decided to close down the mills, the Government of Puducherry had offered to run the mills and the Government of Puducherry and NTC had entered into a Memorandum of Understanding. On 19-4-2005 *vide* a gazette notification, by a Government Order issued by the Government of Pondicherry, the respondent was taken over by the Pondicherry Textile Corporation as its unit mills. Again on 4-7-2005 *vide* a gazette notification G.O. Ms. No. 11/2005-Ind-B, the respondents were transformed as a company under the name of Swadeshee-Bharathee Textile Mills Limited, Pondicherry.

The period of the claim of the petitioner is prior to 1-4-2005 and hence the liability is on the NTC. The claim of the petitioner can only be against the NTC, and as they have not been added as a party to the case, the claim will have to be dismissed on the grounds of non-joinder of necessary parties. This respondent states

that the respondent mill has its own standing orders, dated 8-7-1968 for the employees and the respondent mills abide by the said standing orders. This respondent states that very basic details, such as name, department, category, token No., father's name, date of birth and date of entry of each and every one of the workmen of the respondent mills, as per the records of the respondent mills, are reproduced in each pay slip of such workmen. The respondent mills but all the NTC mills and its main objective is for the workmen to check whether the information given by them and recorded by the respondent in the service records are correctly done and in case of any discrepancy or clerical error. Each and every one of the petitioners who have raised the dispute have put in service of more than twenty years and have received and checked and have been satisfied with the entries in their respective pay slips for all these years. The petitioners are estopped from now raising any dispute over the entries made in the pay slip and reproduced in the list with permanent numbers. The respondent mills each of the petitioners will have to submit Service and Identification Agreement and Gratuity Nomination. Each of the petitioners have signed and submitted Service and Identification Agreements and Gratuity Nominations. Only based on the information given by the petitioners themselves, the entries have been made in the respondent mills records.

4. On the side of the petitioners, PW1 and PW2 were examined, and the side of the respondent RW1 and RW2 were examined. On the petitioners side Ex.P1 to Ex.P4 were marked. On the side of the respondent, Ex.R1 to Ex.R3 were marked.

5. *The point for determination is:*

Whether the industrial dispute can be allowed? Whether the demand of Pudukai Mill Thozhilalar Sangam, Pudukerry, against the management of M/s. Swadeshi Cotton Mills, Pudukerry for change of date of entry of the following mills is justified?

6. *On the point:*

Whether the date of entry in the ESI Card is the date of confirmation of service is the first point is to be decided in this case. The date of entry in the ESI Card is Ex P4. In this regard PW1 in his cross-examination deposed as follows:

இந்த வழக்கில் மூன்று தொழிலாளிகள் நிவாரணம் கேட்டு மனு தாக்கல் செய்துள்ளோம். அந்த மூன்று நபர்கள் யார் என்று எங்கள் கோரிக்கை மனுவில் கூறவில்லை. அந்த மூன்று நபர்களில் நானும் ஒருவர். சுமார் 5 வருடங்களாகத்தான் அச்சிடப்பட்ட சம்பளச் சீட்டு சம்பளத்துடன் கொடுக்கிறார்கள். அதற்குமுன்னர் சம்பளச் சீட்டுத் தாளில் எழுதி கொடுப்பார்கள். எங்களுக்கு வழங்கப்படும் சம்பள ரசீதில் நாங்கள் பணியில் சேர்ந்த தேதி குறிப்பிடப்பட்டிருக்கும் என்றால் சரிதான். பணியில் சேர்ந்த முதல் மாத சம்பளத்துடன் சம்பளப்பட்டியல் ஒருதாளில் கையால் எழுதிக்கொடுப்பார்கள். அந்த

தாளில் கைப்பட எழுதியதை வைத்து சம்பள ரசீதில் நாங்கள் பணியில் சேர்ந்த தேதி குறிப்பிடப்பட்டுள்ளது. அந்த முதல் மாத சம்பள ரசீதை இங்கு தாக்கல் செய்யவில்லை. மற்ற இரண்டு நபர்களின் பெயர் தெரியாது. முதலில் நான் தற்காலிக பணியாளராக 1979-ல் நான் சேர்ந்தேன். நிரந்தர தொழிலாளராக 1982-ல் பணி அமர்த்தப்பட்டேன். 1979 முதல் 1982-ஆம் ஆண்டு வரை எத்தனை நாட்கள் பணி புரிந்தேன் என்பதற்கு ஆதாரம் என்னிடம் இல்லை. வேலையில் சேரும்போதே நான் ESI, EPF மற்றும் பணிக்கொடை ஆகியவை தொடர்பான படிவங்களில் நான் கையெழுத்திட்டேன். அந்த படிவங்களில் என்று வேலைக்கு சேர்ந்தேன் என்பது கண்டிருக்கும். நான் தற்காலிக பணியாளராக சேர்ந்த முதல் நாளிலிருந்தே ESI பிடித்தம் கவரேஜ் உள்ளது. Ex.P4-ல் கருணாகரன் என்ற பெயரில் உள்ளது மட்டுமே எனக்குத் தெரியும் மற்ற தாளில் உள்ளது என்ன என்பது எனக்குத் தெரியாது. எனது ESI கார்டு தாக்கல் செய்யவில்லை. எனக்கு ESI கார்டு 1979-ல் கொடுத்தார்கள். ESI கார்டில் பணியில் சேர்ந்த தேதி கண்டிருக்காது.

So according to PW1 the date of ESI Card and the year of issuing ESI is 1979. According to him, he joined the mill as a temporary employee in the year 1979 and he was permanent employee from 1982 onwards. He admits that the date of appointment is mentioned in the monthly salary receipt.

In this regard PW2 deposed as follows :

நான் 1985-ல் எதிர்மனுதாரர் மில்லில் பணியில் சேர்ந்து 2009-ல் ஓய்வு பெற்றேன். பணியில் சேர்ந்த காலத்தில் சம்பளம் தரும்போது ஒரு சீட்டில் சம்பளம் விவரம் எழுதிக்கொடுத்தார்கள். சுமார் 1990-க்கு பிறகு தட்டச்சு செய்து சம்பளச் சீட்டு கொடுத்தார்கள். 2000-க்கு பிறகு கணினி முறையில் print ஆகி சம்பளச் சீட்டு அளிக்கப்பட்டது. சரியான பணியில் சேர்ந்த காலம் எது என்று எனது பிரமாண கடிதத்தில் குறிப்பிடவில்லை என்றால் சரிதான். மொத்தம் 31 தொழிலாளிகளுக்கு இத்தகு குறைபாடுகளை ID 4/2007 என்ற மனு தாக்கல் செய்யப்பட்டு இந்நீதிமன்றத்தில் தீர்ப்பாகி விட்டது. அந்த 31 பேரில் நானும் ஒருவர். அவ்வழக்கின் தீர்ப்பின் பேரில் உயர்நீதிமன்றத்தில் writ petition தாக்கல் செய்து அந்த உத்தரவுக்கு இடைக்கால தடை நிலுவையில் உள்ளது. நான் பணியில் சேர்ந்த முதல் நாளே, நான் நிரந்தர பணியாளராக சேர்வில்லை. நான் முதலில் பத்லி bathly (தற்காலிக பணியாளராக) சேர்ந்தேன். 2 வருடங்கள் கழித்து நிரந்தர பணியாளர் ஆனேன். இம்மனுவில் குறிப்பிட்ட 15 நபர்கள் யாரும் எடுத்தவுடன் நிரந்தர பணியாளராக நியமிக்கப்படவில்லை. தற்காலிக பணியாளராக சேர்ந்தாலும், நிரந்தர பணியாளராக சேர்ந்தாலும் முதல் நாளிலேயே ESI கார்டு கொடுப்பார்கள். வேலையை விட்டுவிட்டு வெளியே சென்று விட்டு மீண்டும் சுமார் 2 மாதம் கழித்து பணிக்கு வந்தால், அதே ESI கார்டு பயன்படுத்த அனுமதிப்பர். Ex.P4 ESI கார்டு நகலில் பணியில் சேர்ந்த தேதி என்ற வாசகம் கண்டிருக்கவில்லை.

In this regard RW1 in his cross-examination deposed as follows:

We are issuing ESI Cards to casual labourers also. If he went to any other work, the number won't change. On seeing the ESI Card and number, I cannot say whether he is permanent or casual.

In this connection RW2 in his cross-examination deposed as follows:

சம்பள clip-ல் உள்ள விவரங்கள் English-ல் இருக்கும். Provident fund-க்கான nomination form-மும் English-ல் இருக்கும். தொழிலாளரில் சில பேருக்கு English தெரியும். அன்வர் பாடஷாவுக்கு English தெரியும்.

On the side of the respondent the ESI declaration form was marked. In that declaration form the date of joining of the employee in a particular work is mentioned. The date of appointment is found in the muster roll. It is further stated on the side of the respondent that in the pension scheme, the nominee application form will be given to the employees and it will be filled up by the employees themselves. Further, in the pay slip which was issued to the employees also the date of joining in the service is mentioned there. But the employees have not taken any steps to rectify that mistake till the filing of this petition. The petitioners witness Karunagaran PW1 deposed in his evidence nomination form was in English and the management used to ascertain the name of the nominee and obtained his signature in it. Likewise, the employees used to see the gross salary and the deductions and they were not very particular in noting the date of appointment. They came to know about the contradiction in the date of appointment because some of the workers went on VRS and thereafter only they came to know this contradiction.

7. It is argued on the side of the petitioner that in a similar case the order was passed in favour of the petitioners and the number of case I.D.No.4/2007. The order was passed on 19-10-2010 but as against that order a writ petition was filed and the stay has been granted. So, there is no possibility to give much importance to the order passed in I.D.No. 4/2007.

8. The appointment order copy of the employees are not filed in this case. The employees have not filed their pay slip. It is admitted on the side of the petitioner as well as the respondent that ESI Card was issued to casual labourers, permanent labourers, contract labourers, daily wage labourers and others. So, there is no possibility to consider the date which was mentioned in the ESI Card as the date of appointment. It is admitted by the witness that the employees were employed in the mill as casuals and then temporary and thereafter the services were confirmed and made permanent. The date of entry into the service is 1979 but date of regularisation is 1982. This aspect is clearly proved by the evidence of PW1, PW2, RW1 and RW2.

9. It is stated on the side of the petitioner that they never used to notice, the date of appointment in the pay slip. It is their mistake. Further it is stated on the side of the petitioners that the particulars in the nomination form for PF and gratuity are not filled by the employees. But they used to give their particulars. No dispute was raised by the employees till now that they have given wrong particulars. So the explanation given by the employees is highly artificial and unbelievable and it cannot be accepted.

10. In the pay slips and in the gratuity and PF forms a particular date is mentioned. As the date of appointment and some other date is mentioned in the ESI Card. The petitioners have not mentioned what are the records they wish to correct. What are the documents in which the date of entry is to be corrected is not clearly stated by the petitioners. It was not clearly stated in the claim statement as well as in the evidence. So from the available evidence and from the records, it is clear that the date of confirmation is different from the date of issue of the ESI Cards. It is admitted by RW1 and it is not mentioned in the ESI Card as to whether the employee is the casual labourer or permanent labourer.

11. According to the petitioners the management has mentioned some other date as the appointment date in the records and thereby some 15 members of the union had lost 17 to 74 months salary reduction in their service and so there was a loss in the gratuity and retrenchment compensation. The objection was not raised in the proper time. The objection was raised belatedly and there was inordinate delay. So they were estopped from raising their objection now. Furthermore, some of the important documents are not filed by the petitioners such as their pay slip and their identity card to show that there are member of the petitioner union. Furthermore no authorisation was given to PW1 and PW2 to depose evidence before court.

12. It is stated on the side of the respondent that the period of the claim of the petitioner is prior to 1-4-2005 and hence the liability is on the NTC. The claim of the petitioner can only be against the NTC, and as they have not been added as a party to the case, the claim will have to be dismissed on the grounds of non-joinder of necessary parties. With regard to this aspect no answer was given on the side of the petitioner. It is stated on the side of the respondent as per the Memorandum of Understanding between the National Textile Corporation Limited and the Government of Puducherry dated 1-4-2005 all liability prior to the date of NTC the respondent taken over by the Government of Puducherry under zero liability. On 19-4-2005 the Government of Puducherry has taken over the respondent mill as its unit mills. Hence, this vital question was not answered by the petitioners and the present case is bad on the grounds of non-joinder of necessary parties also. It is clearly stated by the respondent that each and every one of the petitioners who have raised the dispute have put in service of more than twenty years and have received and checked and have been satisfied with the entries in their respective pay slips for all these years. So, the petitioners have estopped from now raising any dispute over the entries made in the pay slip and reproduced with the list in the permanent numbers. The argument on the side of the petitioner that they have not checked the entries in the pay slip as well as in the nomination forms is a lame excuse and it cannot be accepted. Furthermore, it is not the case that they have given the date of entry wrongly. So, the petitioners have estopped from

claiming such a relief. The order referred in I.D. No. 4/2007 is passed by this court and according to the respondent an appeal is pending and stay has been granted. So, there is no possibility to take that order into consideration to decide the present dispute. Taking into consideration of all the above said aspects, the petition filed by the petitioner is dismissed.

13. In the result, the present petition is dismissed. No costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 23rd day of May 2014.

S. MARY ANSELAM,
Presiding Officer,
Industrial Tribunal, Puducherry.

List of witnesses examined for the petitioner:

PW.1 — 10-9-2012 — V. Karunakaran

PW.2 — 21-6-2013 — V. Setharanyam

List of witnesses examined for the respondent:

RW.1 — 29-11-2013—Aadil Shamim

RW.2 — 24-1-2014—Sridher

List of exhibits marked for the petitioner:

Ex.P1 — Photocopy of the Company Labour list, dated 8-1-2005.

Ex.P2 — Photocopy of the loss of labour details, dated 6-9-2007.

Ex.P3 — Photocopy of the Company letter, dated 26-2-2008

Ex.P4 — Photocopy of the ESI identity card in fifteen members.

List of exhibits marked for the respondent:

Ex.R1 — Copy of the standing orders pertaining to the respondent's mills.

Ex.R2 — Copies of the pay slips of 13 petitioner workmen pertaining to March 2011.

Ex.R3 — Copies of the gratuity nomination forms of 12 petitioner workmen.

S. MARY ANSELAM,
Presiding Officer,
Industrial Tribunal, Puducherry.

GOVERNMENT OF PUDUCHERRY
DIRECTORATE OF SCHOOL EDUCATION

No. 429-435/DSE/EC/C/2014.

Puducherry, the 21st July 2014.

NOTIFICATION

It is hereby informed that the following candidates have lost their original Higher Secondary Examination Mark Certificates beyond the scope of recovery and necessary steps have been taken to issue duplicate certificates. If any one finds the original mark certificate(s), it/they may be sent to the Secretary, State Board of Secondary Examinations, College Road, Chennai – 600 006 for cancellation, as it is/they are no longer valid.

Sl. No.	Name of the applicant	Register No., session and year	Sl. No. of the mark certificate	School in which studied last
(1)	(2)	(3)	(4)	(5)
Thiru/Tmt./Selvi :				
1	Muneeswari, V.	545881, March 2013	7994017	K.S.P. Higher Secondary School, Kadhirkamam, Puducherry.
2	Ilakkiyan, J.	549449, March 2010	5148209	Aditya Vidyashram Higher Secondary School, Konerikuppam, Puducherry.
3	Iyyappan, V.	531350, March 2009	4500771	Kamban Government Higher Secondary School, Nettapakkam, Puducherry.
4	Rajalakshmi, M.	473553, March 2007	2929514	Government Higher Secondary School, Korkadu, Puducherry.